



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0273]

RIN 1625-AA09

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Palm Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the operation of the Flagler Memorial (SR A1A) Bridge, mile 1021.8, the Royal Park (SR 704) Bridge, mile 1022.6, and the Southern Boulevard (SR 700/80) Bridge, mile 1024.7, across the Atlantic Intracoastal Waterway, at West Palm Beach, Florida. This modification allows the Flagler Memorial, Royal Park and Southern Boulevard Bridges to operate on alternative schedules when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service visit Mar-a-Lago. The proposed modifications are necessary to accommodate the increase in vehicular traffic when the presidential motorcade is in transit.

**DATES:** Comments and relate material must reach the Coast Guard on or before

[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE  
FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-  
2017-0273 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the  
SUPPLEMENTARY INFORMATION section below for instructions on  
submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this  
rule, call or e-mail LT Ruth Sadowitz, Coast Guard Sector Miami, FL, Waterways  
Management Division, telephone 305-535-4307, email [ruth.a.sadowitz@uscg.mil](mailto:ruth.a.sadowitz@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
OMB	Office of Management and Budget
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code
FL	Florida
FDOT	Florida Department of Transportation
AICW	Atlantic Intracoastal Waterway

### **II. Background, Purpose and Legal Basis**

The bridge owner, Florida Department of Transportation, requested  
changes to the drawbridge operating schedules to better facilitate orderly vehicle  
traffic flow across the Flagler Memorial, Royal Park and Southern Boulevard  
bridges when the President of the United States, members of the First Family, or

other persons under the protection of the Secret Service visit Mar-a-Lago.

On August 17, 2017, the Coast Guard published a notice of deviation from drawbridge regulation with request for comments in the Federal Register (82 FR 39019) to test proposed changes. Three Comments were received during the test period, which were in favor of the regulation changes.

The Flagler Memorial (SR A1A) Bridge, mile 1021.8, across the AICW (Lake Worth Lagoon) at West Palm Beach, Florida is a double-leaf bascule bridge that has a vertical clearance of 22 feet at mean high water in the closed position. The Royal Park (SR 704) Bridge, mile 1022.6, across the AICW (Lake Worth Lagoon) at West Palm Beach, Florida is a double-leaf bascule bridge that has a vertical clearance of 21 feet at mean high water in the closed position. The Southern Boulevard (SR 700/80) Bridge, mile 1024.7, across the AICW (Lake Worth Lagoon) at West Palm Beach, Florida is under construction, a temporary lift bridge is in place that has a vertical clearance of 14 feet at mean high water in the closed position and a 65 foot vertical clearance in the open position. The existing regulations are published in 33 CFR 117.261(u), Flagler Memorial Bridge, §117.261(v) Royal Park Bridge and §117.261(w) Southern Boulevard Bridge.

### **III. Discussion of Proposed Rule**

These modified regulations are necessary to alleviate vehicle traffic congestion when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service visit Mar-a-Lago. The increase in traffic congestion occurs when the proposed Presidential Security Zone

(see 82 FR 28036) is enforced which closes the Southern Boulevard Bridge when the presidential motorcade is in transit. This action requires through traffic to use the Flagler Memorial and Royal Park Bridges.

This NPRM proposes the same schedule as during the temporary deviation. The Flagler Memorial Bridge is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:15 p.m., 3:15 p.m., 4:15 p.m. and 5:15 p.m., weekdays only, if vessels are requesting an opening. The Royal Park Bridge is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:30 p.m., 3:30 p.m., 4:30 p.m. and 5:30 p.m., weekdays only, if vessels are requesting an opening. At all other times the bridges will operate per their normal schedules.

The operating schedule of the Southern Boulevard Bridge, which is closest to Mar-a-Lago, will be allowed to remain closed to navigation whenever the presidential motorcade is in transit. At all other times the bridge shall open on the quarter and three-quarter hour, or as directed by the on-scene designated representative.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

##### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and

benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels able to pass through the Flagler Memorial and Royal Park Bridges in the closed position may do so at anytime. The bridges will be able to open for emergencies. The Southern Boulevard Bridge will be under the control of the on-scene designated representative.

#### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridges may be small entities, for the reasons stated in section IV.A above this proposed

rule may impact but would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

#### D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed

this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have

made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review under paragraph L49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this proposed rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

**V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking



Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

#### **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend §117.261 by revising paragraphs (u), (v), and (w) to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

\* \* \* \* \*

(u) Flagler Memorial (SR A1A) Bridge, mile 1021.8, at West Palm Beach.

(1) The draw shall open on the quarter and three-quarter hour.

(2) When the security zone is enforced, the draw is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:15 p.m., 3:15 p.m., 4:15 p.m. and 5:15 p.m., weekdays only, if vessels are requesting an opening. At all other times the draw shall open on the quarter and three-quarter hour.

(v) Royal Park (SR 704) Bridge, mile 1022.6, at West Palm Beach.

(1) The draw shall open on the hour and half-hour.

(2) When the security zone is enforced, the draw is allowed to remain closed to navigation from 2:15 p.m. to 5:30 p.m. with the exception of a once an hour opening at 2:30 p.m., 3:30 p.m., 4:30 p.m. and 5:30 p.m., weekdays only, if vessels are requesting an opening. At all other times the draw shall open on the hour and half-hour.

(w) Southern Boulevard (SR 700/80) Bridge, mile 1024.7, at West Palm Beach.

(1) The draw shall open on the quarter and three-quarter hour.

(2) When the security zone is enforced, the draw may be closed without

advanced notice to permit uninterrupted transit of dignitaries across the bridge. At all other times the bridge shall open on the quarter and three-quarter hour, or as directed by the on-scene designated representative.

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Dated: April 30, 2018

Peter J. Brown

Rear Admiral, U.S. Coast Guard

Commander, Seventh Coast Guard District

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